

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

DSM DESOTECH, INC.
1122 Saint Charles Street
Elgin, IL 60120,

And

DSM I.P. ASSETS B.V.
Het Overloon 1
6411 TE Heerlen, Netherlands,

Plaintiffs,

V.

MOMENTIVE SPECIALTY CHEMICALS INC.
180 East Broad Street
Columbus, OH 43215,

And

MOMENTIVE UV COATINGS (SHANGHAI)
CO., LTD.

No. 1 KangQiao High Tech Zone
1-39# East KangQiao Road
Pudong, Shanghai 201315, China,

Defendants.

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiffs DSM Desotech, Inc. and DSM I.P. Assets B.V. (together, “DSM”), allege as follows against Defendant Momentive Specialty Chemicals Inc. and Momentive UV Coatings (Shanghai) Co., Ltd. (“Defendants”):

NATURE OF THE ACTION

1. This is a civil action, arising under the patent laws of the United States, 35 U.S.C. § 1, *et seq.*, for the infringement of United States Patent No. 7,171,103, United States Patent No.

6,961,508, United States Patent No. 7,067,564, and United States Patent No. 7,706,659 (collectively, the “Patents-in-Suit”).

2. This action involves Defendants’ manufacture, use, sale, offer for sale, and/or importation into the United States of optical fiber coatings that infringe one or more claims of the Patents-in-Suit.

PARTIES

3. Plaintiff DSM Desotech, Inc. (“DSM Desotech”) is a Delaware corporation with its principal place of business at 1122 Saint Charles Street, Elgin, Illinois 60120.

4. For over forty years, DSM Desotech (and/or its predecessors) has dedicated significant resources to the research and development of improved optical fiber coatings. It specializes in UV-curable optical fiber coatings, a critical component of high-speed optical fiber networks. Without optical fiber coatings, glass optical fibers are unusable because they are fragile and cannot be deployed into the field. With more than three decades of experience in fiber coatings development, DSM Desotech is the world’s leading developer of such coatings.

5. Plaintiff DSM I.P. Assets B.V. (“DSM IP”) is a Netherlands corporation with a registered place of business at Het Overloon 1, 6411 Te Heerlen, Netherlands.

6. On information and belief, Defendant Momentive Specialty Chemicals Inc. (f/k/a Hexion Specialty Chemicals, Inc.) is a New Jersey corporation with its principal place of business at 180 East Broad Street, Columbus, Ohio 43215.

7. On information and belief, Defendant Momentive UV Coatings (Shanghai) Co., Ltd. is a Chinese corporation with its principal place of business at No. 1 KangQiao High TechZone, 1-39# East KangQiao Road, Pudong, Shanghai 201315, China. On information and belief, Defendant Momentive UV Coatings (Shanghai) Co., Ltd. is a joint venture of Defendant

Momentive Specialty Chemicals Inc., and Defendant Momentive Specialty Chemicals Inc. has a 49.99% ownership interest in Defendant Momentive UV Coatings (Shanghai) Co., Ltd.

JURISDICTION AND VENUE

8. This Court has original jurisdiction over the subject matter of this Complaint under 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States, 35 U.S.C. §§ 1, *et seq.*

9. This Court has personal jurisdiction over Defendants. In particular, this Court has general personal jurisdiction over Defendant Momentive Specialty Chemicals Inc. because, on information and belief, Defendant Momentive Specialty Chemicals Inc. locates its global headquarters in this judicial district. On information and belief, Defendant Momentive Specialty Chemicals Inc. substantially, continuously, and systematically transacts business in this judicial district. On information and belief, Defendant Momentive Specialty Chemicals Inc. has availed itself of the rights and benefits of Ohio law, previously admitted to personal jurisdiction in this Court, and availed itself of the jurisdiction of this Court.

10. This Court has specific personal jurisdiction over Defendants. On information and belief, Defendants have committed acts of infringement of one or more claims of the Patents-in-Suit in the United States, the State of Ohio, and this judicial district. On information and belief, Defendants, directly or through their affiliates and agents, ship, distribute, offer for sale, sell, and/or advertise in the United States, the State of Ohio, and this judicial district, their optical fiber coatings that infringe one or more claims of the Patents-In-Suit. For example, on information and belief, Defendant Momentive Specialty Chemicals Inc.'s website, which is publicly available throughout the United States, the State of Ohio, and this judicial district, states: "The KlearShield*, SpectraShield* and BondShield products offered by our joint venture, Momentive UV Coatings (Shanghai) Co., LTD. (MUV) are UV curable optical fiber coatings,

inks, ribbon matrix materials and adhesives for the telecommunications industry,” and that “*KlearShield and SpectraShield are trademarks owned by Momentive Specialty Chemicals Inc.” On information and belief, Defendants have purposefully and voluntarily placed their infringing optical fiber coatings into the stream of commerce with the expectation that the optical fiber coatings will be purchased by consumers in the State of Ohio and this judicial district. On information and belief, these infringing products have been and continue to be purchased by consumers in the State of Ohio and this judicial district.

11. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b) and (c), and § 1400(b) because Defendants are subject to personal jurisdiction in this judicial district, reside in this judicial district, and/or have committed acts of infringement in this judicial district.

FIRST CLAIM FOR RELIEF
Infringement of U.S. Patent No. 7,171,103

12. DSM re-alleges and incorporates by reference the allegations of Paragraphs 1 through 11 as though fully set forth herein.

13. United States Patent No. 7,171,103 (the “’103 Patent”) entitled “Coated optical fibers,” issued on January 30, 2007, from United States Patent Application No. 11/240,397, filed on October 3, 2005. A copy of the ’103 Patent is attached hereto as Exhibit A.

14. DSM IP is the owner by assignment and DSM Desotech is the exclusive licensee of the ’103 Patent. DSM Desotech exclusively licenses/holds all substantial rights thereof, including the right to bring this lawsuit.

15. On May 1, 2014, in IPR2013-00043, the Patent Trial and Appeal Board of the United States Patent and Trademark Office issued a final decision denying the Petitioner’s cancellation request with respect to all claims of the ’103 Patent.

16. On information and belief, Defendants will, have been, and/or are directly infringing one or more claims of the '103 Patent under 35 U.S.C. § 271(a) by, among other things, making, using, offering to sell, or selling in the United States, or importing into the United States, products and/or services that are covered by one or more claims of the '103 Patent, including, by way of example and without limitation, the KlearShield 1-048 optical fiber coating.

17. DSM is entitled to recover from Defendants the damages sustained by DSM as a result of Defendants' infringement of the '103 Patent in an amount subject to proof at trial which, by law, cannot be less than a reasonable royalty, together with interests and costs fixed by this Court under 35 U.S.C. § 284.

18. The acts of Defendants have caused, and unless enjoined by this Court, will continue to cause, irreparable damage, loss, and injury to DSM for which DSM has no adequate remedy at law and for which DSM is entitled to injunctive relief.

SECOND CLAIM FOR RELIEF
Infringement of U.S. Patent No. 6,961,508

19. DSM re-alleges and incorporates by reference the allegations of Paragraphs 1 through 11 as though fully set forth herein.

20. United States Patent No. 6,961,508 (the "'508 Patent") entitled "Coated optical fibers," issued on November 1, 2005, from United States Patent Application No. 10/421,946, filed on April 24, 2003. A copy of the '508 Patent is attached hereto as Exhibit B.

21. DSM IP is the owner by assignment and DSM Desotech is the exclusive licensee of the '508 Patent. DSM Desotech exclusively licenses/holds all substantial rights thereof, including the right to bring this lawsuit.

22. On May 1, 2014, in IPR2013-00044, the Patent Trial and Appeal Board of the United States Patent and Trademark Office issued a final decision denying the Petitioner's cancellation request with respect to all claims of the '508 Patent.

23. On information and belief, Defendants will, have been, and/or are directly infringing one or more claims of the '508 Patent under 35 U.S.C. § 271(a) by, among other things, making, using, offering to sell, or selling in the United States, or importing into the United States, products and/or services that are covered by one or more claims of the '508 Patent, including, by way of example and without limitation, the KlearShield 1-048 optical fiber coating.

24. DSM is entitled to recover from Defendants the damages sustained by DSM as a result of Defendants' infringement of the '508 Patent in an amount subject to proof at trial which, by law, cannot be less than a reasonable royalty, together with interests and costs fixed by this Court under 35 U.S.C. § 284.

25. The acts of Defendants have caused, and unless enjoined by this Court, will continue to cause, irreparable damage, loss, and injury to DSM for which DSM has no adequate remedy at law and for which DSM is entitled to injunctive relief.

THIRD CLAIM FOR RELIEF
Infringement of U.S. Patent No. 7,067,564

26. DSM re-alleges and incorporates by reference the allegations of Paragraphs 1 through 11 as though fully set forth herein.

27. United States Patent No. 7,067,564 (the "'564 Patent") entitled "Coated optical fibers," issued on June 27, 2006, from United States Patent Application No. 09/989,703, filed on November 21, 2001. A copy of the '564 Patent is attached hereto as Exhibit C.

28. DSM IP is the owner by assignment and DSM Desotech is the exclusive licensee of the '564 Patent. DSM Desotech exclusively licenses/holds all substantial rights thereof, including the right to bring this lawsuit.

29. On information and belief, Defendants will, have been, and/or are directly infringing one or more claims of the '564 Patent under 35 U.S.C. § 271(a) by, among other things, making, using, offering to sell, or selling in the United States, or importing into the United States, products and/or services that are covered by one or more claims of the '564 Patent, including, by way of example and without limitation, the KlearShield 1-048 optical fiber coating.

30. DSM is entitled to recover from Defendants the damages sustained by DSM as a result of Defendants' infringement of the '564 Patent in an amount subject to proof at trial which, by law, cannot be less than a reasonable royalty, together with interests and costs fixed by this Court under 35 U.S.C. § 284.

31. The acts of Defendants have caused, and unless enjoined by this Court, will continue to cause, irreparable damage, loss, and injury to DSM for which DSM has no adequate remedy at law and for which DSM is entitled to injunctive relief.

FOURTH CLAIM FOR RELIEF
Infringement of U.S. Patent No. 7,706,659

32. DSM re-alleges and incorporates by reference the allegations of Paragraphs 1 through 11 as though fully set forth herein.

33. United States Patent No. 7,706,659 (the "'659 Patent") entitled "Coated optical fibers," issued on April 27, 2010, from United States Patent Application No. 11/269,765, filed on November 9, 2005. A copy of the '564 Patent is attached hereto as Exhibit D.

34. DSM IP is the owner by assignment and DSM Desotech is the exclusive licensee of the '659 Patent. DSM Desotech exclusively licenses/holds all substantial rights thereof, including the right to bring this lawsuit.

35. On information and belief, Defendants will, have been, and/or are directly infringing one or more claims of the '659 Patent under 35 U.S.C. § 271(a) by, among other things, making, using, offering to sell, or selling in the United States, or importing into the United States, products and/or services that are covered by one or more claims of the '659 Patent, including, by way of example and without limitation, the KlearShield 1-048 optical fiber coating.

36. DSM is entitled to recover from Defendants the damages sustained by DSM as a result of Defendants' infringement of the '659 Patent in an amount subject to proof at trial which, by law, cannot be less than a reasonable royalty, together with interests and costs fixed by this Court under 35 U.S.C. § 284.

37. The acts of Defendants have caused, and unless enjoined by this Court, will continue to cause, irreparable damage, loss, and injury to DSM for which DSM has no adequate remedy at law and for which DSM is entitled to injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, DSM prays for relief as follows:

1. A judgment that Defendants have infringed one or more asserted claims of the Patents-in-Suit;

2. A judgment awarding DSM compensatory damages as a result of Defendants' infringement of the Patents-in-Suit, together with interest and costs, consistent with lost profits and in no event less than a reasonable royalty;

3. A judgment declaring that this case is exceptional and awarding DSM its expenses, costs, and attorneys' fees in accordance with 35 U.S.C. §§ 284 and 285 and Rule 54(d) of the Federal Rules of Civil Procedure;

4. A grant of a permanent injunction pursuant to 35 U.S.C. § 283, enjoining Defendants from further acts of infringement; and

5. Such other and further relief as the Court deems just and proper.

JURY TRIAL DEMANDED

DSM hereby demands a trial by jury of all issues so triable.

Respectfully submitted,

/s/ Stephen E. Chappelear

Stephen E. Chappelear (0012205)

Trial Attorney

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